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OCT 04 2005

In re Application of
Wojciech WYZGA et al.
Application No. 10/068,318
Filed: February 5, 2002
Attorney Docket No. 56712.00002

OFFICE OF PETITIONS

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: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)
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This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 17, 2005, to revive the above-identified application for continuity with a continuing application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on October 14, 2004.

Since this application is being revived for continuity purposes only with continuing application No. 11/036,778 filed January 14, 2005, and since continuity has been established by this decision reviving this application, this application is again abandoned in favor of the continuing application.

As noted previously, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on March 8, 2005, was subsequent to the maximum extendable period for reply in this application, petitioner may request a refund of this fee by writing to M/S 16, Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions